

**SNOHOMISH COUNTY
Charter Review Commission**

**Wednesday June 14, 2006
First Floor Meeting Room No. 1
County Administration Building East
Everett, Wa**

Commission Members Present: Gail Rauch, Mike Cooper, Ryan Larsen, David Simpson, Christine Malone, Jim Kenny, Kristin Kelly, Eric Earling, Wendy Valentine, Barbara Cothorn Hawksford, Diane Symms, Rick Ortiz, Kim Halverson and Rene Radcliff Sinclair.

Commission Members Excused: Mark Bond.

Staff Present: Rich Davis, Steve Reinig, and Allena Olson.

Others in Attendance:

Call to Order: Chair Cooper called the meeting to order at 6:30 p.m.

Approval of Agenda: ACTION: Commissioner Earling made a motion to accept the agenda with a single change, that issue #36, County Ombudsman, be moved from Administrative Report to Issue Debate. Commissioner Simpson seconded the motion, and all commission members present unanimously approved it.

Approval of Minutes: The Commissioners requested their changes to the minutes.

ACTION: Commissioner Kenny made a motion that the minutes be approved as corrected. Commissioner Rauch seconded the motion, and all Commission members present unanimously approved it.

Approval of Vouchers: Commissioner Simpson noted that the vouchers to be approved had changed from Commissioner Earling's voucher of \$52.96 to Commissioner Rauch's voucher of \$48.06. He also noted that Commissioner Earling's voucher would be re-presented at a later date.

ACTION: Commissioner Simpson made a motion to approve the reimbursement voucher of Commissioner Rauch for \$48.06. Commissioner Earling seconded the motion, and all Commission members present unanimously approved it.

Public Comment: Paul Blowers spoke of his experience on the performance audit committee for the last four years. He noted the modifications the council had made in the ways that the committee members are chosen. He also noted the problems currently facing the performance auditor. Mr. Blowers stated that he felt Option 2, offered in the

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briefing paper on the performance auditor, that states the performance auditor should be moved to under the County Council, is what the voters want. He also stated that electing a performance auditor would be a bad choice because the possibility exists that an individual with little or no experience may be elected into office.

Kimber Walmuttson, the Performance Auditor, Ms. Walmutson stated that under the County Council the performance auditor would need to have safeguards in place so that they would be allowed to efficiently audit all departments.

Commissioner Symms asked Ms. Walmutson how it is determined what issues the performance auditor will address.

Ms. Walmutson replied that suggestions are taken from the Council, the public and other departments and all are put together and then prioritized, and the list is created from there.

Commissioner Rauch asked Ms. Walmutson how the budget would be affected by the move to the Council.

Ms. Walmutson stated she did not feel there would be any drastic change regarding the budget.

Chair Cooper asked Ms. Walmutson what amount of their work is contracted out.

Ms. Walmutson replied that there is no funding for contract work. If there is a high volume project that requires additional help, the performance auditor may ask for additional funding for each individual project and contract out with those additional funds, but there is no money set aside originally for contracting out.

Chair Cooper asked if there is a lack of independence because of the location of the auditor or because of the enabling ordinance.

Ms. Walmutson stated she felt it is a combination of both.

Chair Cooper asked if it was indeed the ordinance that put the Auditor in charge of the day to day business of the performance auditor, and if not who is in charge of the day to day business.

Ms. Walmutson replied that the performance audit committee is responsible for the work plan of the performance auditor, and the County auditor is responsible for the day to day business.

Chair's Comments: Chair Cooper announced that Steve would be absent from next weeks meeting, and that the information needed would be sent out on Thursday, June 15.

On the topic of the Ombudsman, Chair Cooper stated if there is no motion tonight to discuss the topic then the original motion would die. However, it would be possible to bring up another motion regarding the Ombudsman at a later date. Chair Cooper noted that it might be cleaner to move into debate and form a new motion on this topic.

New Business: ACTION: Commissioner Kelly made a motion to bring issue #35, hearing examiner appeal process, back onto the issue list. Commissioner Halvorson seconded the motion, and discussion on the issue began.

ACTION: Commissioner Larsen made a motion to limit debate on this issue to three speeches for each side with a time limit of one minute each. Commissioner Sinclair seconded the motion. There was no discussion and the motion carried.

DISCUSSION: Commissioner Kelly stated that this is a very important issue. She acknowledged the concerns that it isn't a Charter issue but feels that the Council will not address the issue and that is not fair to the public to leave the process as it is.

ACTION: The Commissioners voted with the outcome being 8 in favor and 7 against.

Issue Debate: #31 Campaign Finance. In the place of a briefing paper Steve wrote a memo to the Commission on this issue, which stated the following:
As I was researching this issue it was brought to my attention by both County and PDC staff that the Charter does not need to be updated due to the new campaign finance law passed by the last legislative session. The county's enabling campaign finance ordinance links directly to the limits set by the Public Disclosure Commission. Therefore the Chair requested I send this memo to the Commission in lieu of a research paper.

DISCUSSION: Commissioner Valentine stated that she read an interesting paper from Humboldt County in California. In Humboldt there is no corporate financing allowed from outside the county for support of their County Council. Commissioner Valentine stated that she feels this is something the Snohomish County should adopt.

Chair Cooper stated that he recognized the concern, but that the current Charter issue refers directly to the guidelines of the Public Finance Commission, and all that would be needed to change that would be difficult to gather by August 2nd. Chair Cooper continued, noting all that is done with the Council and their receiving of money and that there does seem to be an appearance of fairness in the receipt of large checks by the Council.

ACTION: Commissioner Hawksford made a motion to not move this item forward. Commissioners Rauch and Larsen seconded the motion.

DISCUSSION: Commissioner Hawksford stated that it was her experience that the Council felt constraints with receiving funds, and that they felt bound by their own code of ethics. She continued stating that she felt that this was not a Charter issue.

Chair Cooper stated that he feels there is nothing wrong with the public disclosure reports.

ACTION: Commissioner Larsen made a motion to end debate. Commissioner Earling seconded the motion, and all Commission members present unanimously approved it.

The Commissioners then voted on the motion to not move issue #31 forward. The motion passed with a 13 to 1 vote, the individual votes are as follows:

Halvorson – aye	Rauch – aye
Larsen – aye	Simpson – aye
Symms – aye	Malone – aye
Cooper – aye	Earling – aye
Sinclair – aye	Hawksford – aye
Kenny – aye	Kelly – aye
Valentine – nay	Ortiz – aye

Issue #5 Transparency in local government/evening meetings. Steve presented the Commissioners with a briefing paper on this topic that included the results of a survey question that read: Shall the county council be required to develop rules of procedure that include the use and publication of evening meetings, dissemination of voting records, and access to public information? The results of the question are 75 respondents voted yes and 5 voted no. The paper also offered examples of other counties and their meeting times, and how they are determined.

Commissioner Larsen asked Steve if any other charters have language as specific as the survey question written within them.

Steve replied he had found none that had.

Commissioner Symms stated that it was her impression that this would not require evening meetings.

Commissioner Earling asked Steve if it were true that there were already rules of procedure written in the Charter and this addition would be an expansion of those.

Steve replied that was correct.

Chair Cooper suggested that a sentence that included there should be time for public comment at all the council meetings could be added in a new/additional sentence.

Commissioner Kelly stated that she was in favor of inserting a sentence that included requiring public comment time at all meetings. She stated that the council discusses many issues that affect the public and yet the public is not always allowed time to speak on these issues.

Commissioner Valentine stated that she would like to find some way to improve the wording and include everything without making it sound prescriptive. She thanked the Commission for having this as an issue because it is very important to her.

Commissioner Symms asked if as it stands now in the Charter the council are able to hold evening meetings.

Several of the Commissioners stated that it is within the power of the council to hold night meetings.

Commissioner Symms stated that she is against this motion because as it stands the council already able to schedule night meetings if they wish.

Commissioner Kenny stated that if the motion offers this specific language that the council still might not get the hint. He stated he felt the language should be more specific, reading "council shall hold one night meeting per month". Commissioner Kenny stated that it is not about whether or not the public always shows at the evening meetings, but more about having the ability to attend if they so desire.

Commissioner Kelly stated that she agrees with Commissioner Kenny. She shared examples of meetings that she had attended where there was little or not public attendance because the meeting was held in the middle of the day, when most individuals have to be to work, as well as an example of a hearing held in the middle of the day where there was public attendance but not everyone who wished to testify was able to because they had to leave before it was their turn to return back to work.

Commissioner Earling wondered if it is possible to put specific language such as this in the charter without meandering into management issues, and day to day operations because these things are not part of what the Charter is for.

Commissioner Valentine stated that while she did not have the email from the League of Women Voters in front of her, she recalled that they specifically said that they supported requiring the council to hold meetings at night. She stated that she feels this issue is a win-win situation because it is what the voters want.

Commissioner Symms stated that while she is sensitive to the topic of transparency of government she feels that this is a management issue, and not something that should be dealt with in the charter.

Commissioner Sinclair stated that she appreciates the sentiment of the language but doesn't feel that it will accomplish much. She would support having one night meeting a month, but she too is unsure if this is really a charter issue.

ACTION: Commissioner Valentine made a motion to accept the language proposed by the Chair in the briefing paper, with more emphasis on specific language in the letter of transmittal sent to the council. Commissioner Earling seconded the motion.

ACTION: Commissioner Kenny made a motion to amend the previous motion by adding a new sentence to the end of the language proposed by the Chair, that reads “provided council shall hold one night meeting per month.” Commissioner Kelly seconded the motion.

Commissioner Earling stated that he opposed the amendment.

Commissioner Larsen stated that he supported Commissioner Earling in opposition of the amendment.

Commissioner Kenny stated that he feels it is necessary to have specific language otherwise the council won’t change it’s ways.

Commissioner Kelly stated that she supports the amendment.

ACTION: The Commissioners held a voice vote on the motion of the amendment, and the motion failed.

ACTION: Commissioner Kelly made a motion to amend the original motion to include language that would provide time for public comment at all council meetings. Commissioner Simpson seconded the motion.

Commissioner Kelly stated there should be opportunity at every meeting for the public to speak on the issues at hand.

Commissioner Larsen stated that he was not in favor of the motion. He stated allowing the council the ability to speak and debate on the issues without being interrupted is important to the timely flow of business.

Commissioner Simpson stated that he was in favor of the motion, and that there should be every opportunity for the elected officials to hear the comments and concerns of those that elected them.

Commissioner Valentine stated that during the meetings of this Commission she has taken notes and looking back she sees that the public comment section has been the most informative aspect.

Commissioner Kenny stated that the council works for the public and therefore should hear what they have to say.

Commissioner Halvorson stated that if the officials are discussing an issue important to the public than the public should be able to comment because it might be that they can't make a meeting were public comment is scheduled.

ACTION: Commissioner Simpson made a motion to end debate on this issue. Commissioner Earling seconded the motion, and all Commission members present unanimously approved it.

ACTION: The Commissioners held a voice vote on the amendment to insert language that specified that time for public comment be scheduled at each council meeting. The motion passed.

Commissioner Rauch asked if the motion now before them is to move issue #5 forward including the amended language that states there should be time for public comment at each meeting.

Commissioner Earling stated that the motion also includes the commission shall put a strong recommendation for night meetings in their letter of transmission.

Commissioner Ortiz stated that he supported the recommendation in the letter of transmission, but that he was not in support of micromanaging the council.

Commissioner Hawksford stated she felt this is a feel good motion, and doesn't think that it will achieve much.

Commissioner Symms stated that she supports the recommendation in the letter of transmission, but that the charter is back to dealing with a micromanagement issue that isn't appropriate.

Commissioner Valentine stated that there is nothing micromanaging about this statement.

Chair Cooper stated that he would support this motion in order to view the specific language, from staff, that would be put in the charter.

Commissioner Halvorson stated that she is concerned this is a feel good item, and that she doesn't wish to cloud the issues to the voters.

Commissioner Earling stated that moving forward with this issue does not preclude it from being bundled in the future.

ACTION: Commissioner Earling made a motion to end debate on this issue. Commissioner Symms seconded the motion, and all Commission members present unanimously approved it.

ACTION: The Commissioners then voted on the original motion. The motion passed with a 12 to 2 vote, the individual votes are as follows:

Halvorson – aye	Rauch – aye
Larsen – nay	Simpson – aye
Symms – aye	Malone – aye
Cooper – aye	Earling – aye
Sinclair – aye	Hawksford – aye
Kenny – aye	Kelly – aye
Valentine – aye	Ortiz – nay

Issue #16, Interlocal agreements. Steve presented the Commission with a briefing paper on this topic. Within the briefing paper is the definition of an interlocal agreement: “The Declaration of Purpose in RCW 39.34, The Interlocal Cooperation Act states: It is the purpose of this chapter to permit local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis on mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

Also included in the paper was the results of a survey question asking “shall the interlocal agreement process be streamlined or require additional public input”. The results of this question are 128 votes for yes and 5 votes for no.

The options put to the Commission are:

No Change. The ability to approve via ordinance remains but still vague as to how and when to use the ordinance process.

Edit section 2.140 Motions. By editing this section all interlocal agreements, memorandum of understandings, contracts would be required to be passed via ordinance. In so doing the Snohomish County Charter is then very similar to King, Pierce, and Whatcom Counties.

Chair Cooper stated his concern that requiring many ordinances may mean that not everything gets done as quickly.

Commissioner Sinclair stated that she was confused about the wording. Do the survey results mean that there is support for more public comment, or that they wish the process to be more streamlined.

Commissioner Rauch asked if there was a monetary limit set by other counties.

Commissioner Earling asked if it would be possible to clarify the necessity of ordinance for interlocal agreements, not interagency, contracts and etc.

Steve replied that something of that nature would have to be worded very specifically.

Commissioner Halvorson asked if other home rule counties have mandated public comment on interlocal agreements.

Steve replied that it was in the ordinances.

Commissioner Halvorson asked how the other counties handle additional input.

Steve replied that he was unsure.

DISCUSSION: Commissioner Kelly stated that she was in favor of moving this issue forward, but she would like to be sure that any other things that are approved by motion at this point are not lumped into this.

Commissioner Halvorson stated that she had found a loophole regarding this issue. Commissioner Halvorson prepared a paper illustrating this loophole for the other Commissioners. The paper was written as follows:

Snohomish County Charter Preamble:

We the citizens of Snohomish County, in order to: secure the benefits of home rule; encourage citizen participation in county government, do hereby adopt this charter.

A loophole in our charter encourages the opposite:

Section 2.140: Motions

The county council may pass motions to confirm or reject nominations or appointments, to adopt comprehensive plans, to approve inter fund loans, to organize and administer the legislative branch, to perform other administrative acts, to issue rulings in quasi-judicial proceedings except rezone actions, and to request information from any other agency of county government. Motions shall not be subject to veto or the requirements for the introduction, consideration and passage of ordinances.

The net result of this current loophole: The citizens are excluded from the government process and is a direct conflict with what a home rule charter is all about- the citizens, openness, and transparency of government.

Motions language in King County, (Section 240 Motions)

The county council may pass motions to confirm or reject appointments by the county executive, to organize and administer the legislative branch, to make declarations of policy which do not have the force of law and to request information from any other agency of county government. Motions shall not be subject to the veto power of the county executive, and the county council in passing motions need not comply with the procedural requirements for the introduction, consideration and adoption of ordinances.

Commissioner Kelly stated that perhaps this loophole could be fixed by having all motions have hearings.

ACTION: Commissioner Halvorson made a motion that every legislative act be by ordinance, and to direct the attorney to craft language that expresses this intent. Whereas Snohomish County would be in line with the majority of other home rule counties of the state. Commissioner Symms seconded the motion.

Commissioner Ortiz stated that he would like the wording to both emphasize the problems and the solution if this goes to the ballot.

Commissioner Kenny stated that he opposed this motion. He stated that all the speakers have been from Tulalip and that there seemed to be no other problems with any other interlocal agreements, and he is not sure that there is a real problem if there is only one complaint. Looking at the other contracts and mundane business of the county, having all these things required to be passed by ordinance would be inefficient.

Commissioner Sinclair stated that she supported the motion. She stated that she is concerned about the number of things that are passed by motion, that she appreciates the need to streamline things but at what cost.

Commissioner Kelly stated that she supported the motion but is concerned about having everything passed by ordinance and would like to have an amendment that would keep certain areas of business from getting bogged down.

Commissioner Rauch stated that she supported the motion and that other counties adopted language such as this and it has not stopped them from completing all the necessary business.

Chair Cooper stated that he supports the motion but he would like to research some language as to exclude some business from needing to be passed by ordinance.

Commissioner Hawksford stated that she is concerned that this would bog down a lot of the county's business.

ACTION: Commissioner Earling made a motion to end debate on this issue. Commissioner Larsen seconded the motion, and all Commission members present unanimously approved it.

The Commissioners then voted on the motion set forth by Commissioner Halvorson. The motion passed with a 10 to 4 vote, the individual votes are as follows:

Halvorson – aye	Rauch – aye
Larsen – nay	Simpson – aye
Symms – aye	Malone – nay
Cooper – aye	Earling – aye
Sinclair – aye	Hawksford – nay
Kenny – nay	Kelly – aye
Valentine – aye	Ortiz – aye

Issue #3, Performance Auditor. The briefing paper included the options put to the Commission regarding the performance auditor, as well as the attachments of the guidelines and model legislation for local government auditors, and point/counterpoint elected vs. appointed auditors.

The options of the Commission are no change, move the auditor to the county council, create an elected office of performance auditor, or contract for performance audit services.

Commissioner Simpson asked what the term of the performance auditor would be if they moved the position under the council, and what term an elected performance auditor would have.

Steve replied that under the council it would most likely be 4 – 6 years, and if elected 4 years.

Commissioner Sinclair asked if under the model given, they were still looking at 1.5 FTE.

Steve replied that there were no assumptions on staffing.

Commissioner Sinclair stated that the state has a similar system but the difference is that the state has the ability to contract out. She asked what other counties do that might also be different.

Steve replied that Pierce County has two performance auditors in the office, and they also have a large budget available to them to do hire contract work.

Commissioner Ortiz asked which scenario Steve thought was the best.

Steve replied he felt that an elected performance auditor was the best choice for insuring independence.

Chair Cooper asked if it was correct that the county council has the authority to do audits.

Steve replied that is correct.

ACTION: Commissioner Earling made a motion to move the issue forward using the model on pages 9 and 10 of the briefing paper attachments as a guideline. Commissioner Ortiz seconded the motion.

Commissioner Earling stated that, as indicated, he feels that it is best to but the performance auditor under the legislative branch and the fact that the Performance Auditor herself supported this should hold a lot of weight. He continued, recalling how

this issue had been the “pet issue” of the previous Commission’s Chair, and the reason that the performance auditor ended up where it did in the first place.

Commissioner Malone stated that she opposed the motion. She stated that moving the performance auditor to under the council makes the position more political and not as efficient. She stated that while it is not within the budget, she feels that the only way to have a truly independent performance auditor would be to contract out the position.

Commissioner Kenny stated that he opposed the motion. He stated that he is concerned about the cost of this proposal. He stated that it is known that the council has the authority to conduct audits and that the previous Commission of 1996 knew what they were doing when they left this power in both places. He stated that it makes sense to keep things simple and keep the performance auditor in the auditing department.

ACTION: Commissioner Larsen made a motion to extend the meeting 35 minutes. Commissioner Symms seconded the motion, and the motion passed.

Commissioner Earling stated that the Commission of 1996 was envisioning the performance auditor to be independent but as it is now the County Auditor is in charge of the day to day business. He stated that he feels there is no perfect way to handle this and that there are indeed problems with all the options.

Commissioner Hawksford stated that she is in favor of the motion. She stated that both the current performance auditor and the county auditor have expressed their desire to have the performance auditor moved to the council.

Commissioner Kelly stated that she opposed the motion. She stated that moving the performance auditor to the council adds a political layer to the position in the public’s eye.

Commissioner Rauch stated that she is in favor of the motion. She stated that it is clear that the performance auditor has suffered from budget cuts and that being under the council could help with that scenario.

Chair Cooper asked if there was any more discussion on this topic.

There was no more discussion, so the Commission voted on the motion made by Commissioner Earling and seconded by Commissioner Ortiz. The motion passed with a 10 to 4 vote, the individual votes are as follows:

Halvorson – aye	Rauch – aye
Larsen – aye	Simpson – aye
Symms – aye	Malone – nay
Cooper – nay	Earling – aye
Sinclair – aye	Hawksford – aye
Kenny – nay	Kelly – nay

Valentine – aye Ortiz – aye

Issue #36, County Ombudsman.

ACTION: Commissioner Earling made a motion to hear a brief administrative report on this issue but postpone the discussion to a later date. Commissioner Halvorson seconded the motion, and the motion passed.

Steve presented the Commission with a briefing paper that included information on the inclusion of whistleblower responsibility for the Ombudsman, options for structuring the office, and attachments of the Public Sector Ombudsman, and Governmental Ombudsman standards.

Commissioner Earling asked if King County had started with one ombudsman.

Steve replied he did not know how many they had started with, but that they were currently hiring another.

Commissioner Halvorson stated that the lawyer King County was hiring for the ombudsman position would have a salary of \$70,000 per year.

Commissioner Kenny stated that a large amount of the complaints that they had seen on the example paper given to them had been complaints from inmates. He asked if it was the same from other jurisdictions with an ombudsman.

Steve replied that he did not see that large number in other jurisdictions and that in Oregon there are specific departments that deal with complaints from the jail system.

Chair Cooper asked Steve to share a situation that he had dealt with dealing with the request to log a complaint against Sheriff Bart.

Steve told the Commission of the situation, reiterating that on the Snohomish County web site there is no listing of where to log a complaint about any department, or a number to call to find out such information.

ACTION: Commissioner Kelly made a motion to allow discussion on the topic of the Hearing Examiner tonight. Commissioner Malone seconded the motion.

Commissioner Simpson stated that he was opposed to the motion. He stated that the discussion should be held at a later date and that a decision should not be rushed into.

Commissioner Kelly stated that she would not be in attendance for the next two meetings.

Commissioner Earling stated that he was against the motion because the issue could be brought back up at any time.

Commissioner Larsen stated that he was against the motion, and agreed with Commissioner Earling.

ACTION: Commissioner Valentine made a motion to amend the original motion stating that the issue of the Hearing examiner be brought up at the meeting of July 12. Commissioner Rauch seconded the motion, and the amendment to the original motion passed.

The Commissioners then took a voice vote on the original motion made by Commissioner Kelly and seconded by Commissioner Malone, and the motion passed.

Adjournment: The meeting was adjourned at 8:50 p.m.

Minutes Submitted by:

Allena Olson
Recorder